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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/773,523      | 02/02/2001  | Chun Chen            | M4065.0390/P390     | 6271             |

24998 7590 05/09/2003

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EXAMINER

BEREZNY, NEAL

ART UNIT

PAPER NUMBER

2823

DATE MAILED: 05/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/773,523

Applicant(s)

CHEN, CHUN

Examiner

Neal Berezny

Art Unit

2823

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 April 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see advisory.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: 23.Claim(s) rejected: 1-7, 9-14 and 16-24.Claim(s) withdrawn from consideration: 25-50.

8. ☒ The proposed drawing correction filed on 02 December 2002 is a) ☒ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

**ADVISORY AFTER FINAL**

1. The amendment filed 4/21/03 under 37 CFR 1.116 in reply to the final rejection has been considered but is not deemed to place the application in condition for allowance and will not be entered because: It raises new issues, thus requiring an additional search and considerations.

***Response to Arguments***

2. Applicant's arguments filed 4/21/03 have been fully considered but they raise new issues and/or are not persuasive, thus not placing the application in condition for allowance. Applicant's proposed amendment to claims 12, 19, and 24 appears to overcome the current rejection.
3. With regard to the other allegedly missing elements, the rejection clearly identified them as being well known in the art. Since applicant was silent on the previous first office action regarding said official notice and /or statements regarding well-known features and/or processes, such silence constitutes applicant's admission of prior art. Applicant is reminded that a rejection need not contain every element, if the element is well known in the art. See MPEP 2144.03 and *In re Zurko*, 258 F.3d 1379, 59 USPQ2d 1693 (Fed. Cir. 2001). Further, applicant's attention is directed to par.5 of the final rejection, wherein the rejection clearly identifies the elements applicant has identified as missing. Applicant has failed to show the non-obviousness of these elements, even within the context of the instant claims.
4. Again, to further expedite prosecution of this case, examiner provides the following reference to applicant, as evidence of the notoriously well known features

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asserted in the examiner's rejections. Gardner et al. (6,127,235) teaches the source implant first and then the pocket implant second, fig.1d and 1f, el.122 and 152, respectively, col.4, ln.61-66, and col.5, ln.20-27. Further, Gardner teaches the interchangeability of P-channel and N-channel device processes, clearly identifying the use of boron dopant, col.8, ln.13-16.

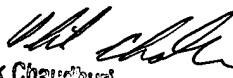
### **Conclusion**

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neal Berezny whose telephone number is (703) 305-1481. The examiner can normally be reached on M-F 9:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Olik Chaudhuri can be reached on (703) 306-2794. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7724 for regular communications and (703) 308-7724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

NB  
May 6, 2003

  
Olik Chaudhuri  
Supervisory Patent Examiner  
Technology Center 2800